

State of Maryland Department of Health and Mental Hygiene

Parris N. Glendening, Governor - Martin P. Wasserman, M.D., J.D., Secretary



DHMH POLICY 02.09.10

**TITLE: COMPENSATION OF PHYSICIANS WHO PROVIDE ON-DUTY OR
OFF-DUTY, EVENING, WEEKEND OR HOLIDAY PHYSICIAN
COVERAGE FOR A DHMH HEALTH CARE FACILITY**

SHORT TITLE: PHYSICIAN'S ON-DUTY/OFF-DUTY COMPENSATION

I. EXECUTIVE SUMMARY

The Secretary of the Department of Health and Mental Hygiene (DHMH) recognizes that the Department has a duty and responsibility to provide appropriate physician coverage on a twenty-four hour basis, to the patients and residents of DHMH health care facilities which have twenty-four hour occupancy. This policy defines the types of coverage and the method of compensation permitted.

II. BACKGROUND

DHMH Policy 02.09.10 supersedes and replaces DHMH 3.2 -“Policy on Physicians Who Are on the Payroll of a Hospital or Health Treatment Facility of the Department of Health and Mental Hygiene Providing Night-time (After Hours), Weekend and Holiday Physician Coverage to That Hospital or Health Treatment Facility”, which was initially issued in February, 1977. This revised policy takes into account the Fair Labor Standards Act (FLSA), which now applies to State governments, and also the revisions of the State's personnel and procurement regulations, particularly those which provide the basis for compensation of physician coverage during periods after normal working hours.

III. POLICY STATEMENTS

A. DEFINITIONS

1. **“Normal coverage” or “normal work or duty hours”** means the routine schedule of physician coverage established by the physician's appointing authority. In other words, normal work hours are those periods of time which are not considered after-hours, evenings, weekends and holidays.

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2. **“On-duty coverage”** is physician coverage during which:
 - a. the physician is physically in the facility
 - b. the physician’s location is known at all times
 - c. the physician is available for routine and emergency medical service at all times
 - d. the physician’s activities are substantially restricted.

A facility’s management has the option to consider as **on-duty coverage** the period of time that the physician is required to be at the facility during a period of assigned **off-duty coverage**.

3. **“Off-duty coverage”** is physician coverage during which:
 - a. the physician is reachable at all times by the facility via local phone call, pager, or other normal communication methods.
 - b. the physician is located within a reasonable distance from the facility
 - c. the physician is able to respond immediately to calls for a physician at the facility
 - d. the physician is prepared to render services wherever medical services are needed at the facility
 - e. the physician’s activities are not substantially restricted.
4. **“Staff Physicians”** are those physicians on the regular and/or Special Payments Payroll of a facility who provide **normal work hours** and/or **on-duty coverage**.
5. In this policy, **“facilities”** refers to hospitals and other health care centers of DHMH which have 24-hour occupancy.

B. RESPONSIBILITIES

The facility’s Superintendent, or designee, is responsible for determining the appropriate level and extent of after hours physician coverage for the facility.

C. COMPENSATION CRITERIA

1. All physicians providing **normal coverage**, **on-duty coverage** or **off-duty coverage** for the Department’s facilities must be licensed physicians recognized by the State of Maryland. Nothing in this policy prohibits the hiring of physician staff for providing only **on-duty coverage** or **off-duty coverage**.

2. The facility management is permitted to use the services of physicians on the facility's payroll to provide on-duty coverage and to compensate the physician on a monetary or compensatory time basis.

3. The facility management is permitted to use the services of staff physicians to provide off-duty coverage and to compensate the physician on the appropriate monetary or compensatory time basis for the actual hours worked, if called by the facility for duty on the facility's premises. A facility which does not have a staff physician is not prohibited from making other arrangements for obtaining the required **off-duty coverage**, provided that the applicable approvals, specified below in Items 9 and 10, are obtained.

- a. In addition to receiving compensatory leave or monetary compensation only for actual work time at the facility, **off-duty** staff physicians are to earn compensatory leave as follows:
 - i. up to three hours compensatory leave for each 16 hour period of **off-duty coverage** on a week day;
 - ii. up to three hours for each twenty-four hour period of **off-duty coverage** on a weekend day or holiday.
- b. For lesser time periods of **off-duty coverage**, the compensatory leave earned will be on a pro rata basis provided that the pro rata amount determined results in the value of at least one-half hour of compensatory time, or the minimum value of compensatory time earnable for FLSA-exempt employees for actual work hours, for the assigned period of coverage.
- c. Staff physicians may not receive monetary reimbursement for providing **off-duty coverage** to the facility on whose payroll they are carried.

4. Compensable hours worked by physicians on the facility's payroll are to be determined in accordance with the definition of "Work Time" contained in COMAR 17.04.02B and, unless not specifically mentioned in COMAR, provisions defining work time under the Fair Labor Standards Act.

5. A physician on the payroll of a DHMH facility who provides **on-duty** or **off-duty coverage** must be compensated via the Comptroller's Regular Payroll (Exception Time Report) and/or the Special Payments Payroll (Positive Time Report) process.

6. Payments to individual physicians for providing any of the types of physician coverage for a facility are not to be paid on a Comptroller transmittal because an employer-employee relationship exists.
7. The facility's management, in fairness to physicians on staff, should attempt to use the services of all staff physicians in providing **on-duty** or **off-duty coverage**, in an equitable manner.
8. Before arrangements are made to obtain **on-duty** or **off-duty coverage** from outside services, the facility should make every attempt to obtain this coverage from the available staff on the payroll of the facility.
9. Facilities are permitted to make payments on Comptroller transmittal to provider services or corporate entities which offer licensed physicians who provide the coverage defined in this policy. Contracts for these payments must have prior approval of the facility's Superintendent (or designee) and Budget Officer and must be in accordance with the Procurement Article of the Annotated Code of Maryland and procurement regulations contained in COMAR Title 21.
10. Rates of pay for hours worked, for physicians providing **on-duty** or **off-duty coverage** are to be approved by the facility's Superintendent (or designee) and Budget Officer within the context of the budget process. Outside of the budget process, new rates must be approved through the DHMH Budget Management Office.

IV. REFERENCES

- ◆ Fair Labor Standards Act, Code of Federal Regulations, (CFR 29, Part 785).
- ◆ State Procurement Article, Annotated Code Of Maryland
- ◆ COMAR Title 17, Budget and Management, Section 17.04.02B
- ◆ COMAR Title 21, Procurement

Approved: Martin P. Wasserman MD
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Secretary

4/7/99
Date